

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

Electronically Filed

CAROL BISINGER)	
)	
)	
PLAINTIFF)	
v.)	CASE NO. 4:20-cv-43
)	
)	
WALMART STORES EAST, LP)	
)	
)	
DEFENDANT)	

NOTICE OF REMOVAL

Defendant Walmart Stores East, LP (“Walmart”), by counsel, for its Notice of Removal of this action from the Clark County Circuit Court, Clark County, Indiana, to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, respectfully states as follows:

1. On December 30, 2019, Plaintiff filed an action against Walmart, which is currently pending in the Clark County Circuit Court, Civil Action No. 10C02-1912-CT-000217. Walmart was served with summons on January 2, 2020 and filed its Answer on January 13, 2020.

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 (a) and (c) because there is diversity of citizenship between the parties and the total amount in controversy exceeds the jurisdictional minimum of \$75,000, though Walmart denies liability to Plaintiffs for damages in any amount.

3. Plaintiff is a citizen of Indiana.

4. In accordance with Carden v. Arkoma Associates, 494 U.S. 185 (1990), the citizenship of a limited partnership, for diversity purposes, is based on the citizenship of each of its general and limited partners.

a. Walmart Stores East, L.P. is a Delaware limited partnership with its principal place of business in Arkansas. It has one general partner, WSE Management, LLC, and one limited partner, WSE Investment, LLC, both of which are Delaware limited liability companies with their principal places of business in Arkansas.

b. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, a citizen of Arkansas.

c. Wal-Mart Stores East, LLC's sole member is Walmart Inc. Pursuant to 28 U.S.C. § 1332(c)(1), a corporation shall be deemed a citizen of its state of incorporation and the state where it has its principal place of business. Therefore, Walmart Inc. is a citizen of Delaware, its state of incorporation, and Arkansas, the location of its principal place of business.

d. In light of the foregoing, Wal-Mart Stores East, L.P. is a citizen of Arkansas and Delaware.

4. The amount in controversy as to Plaintiff's claims against Walmart is legally certain to exceed \$75,000, exclusive of interest in costs.

5. This case arises from an incident in which Plaintiff allegedly sustained injury on the premises of a Walmart store in Clark County, Indiana on or about September 12, 2018 when she reportedly tripped and fell on the store's premises.

6. In the Complaint, Plaintiff seeks unspecified damages for past and future personal injuries.

7. In email correspondence dated February 17, 2020 Plaintiff first confirmed that her claimed damages against Walmart in this case exceed \$75,000, exclusive of interest and costs. This email correspondence is attached as Exhibit A.

8. When removability is not readily apparent from the initial pleading a notice of removal must be filed within thirty (30) days after receipt of a “copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case ... has become removable.” 28 U.S.C. § 1446(b)(3). This Notice of Removal is being filed on February 19, 2020, within thirty (30) days of Walmart’s receipt of Plaintiff’s February 17, 2020 email from which Walmart first ascertained that Plaintiff’s alleged damages exceed \$75,000, exclusive of fees and costs.

9. A copy of all process, pleadings and orders served as of the date of the filing of this Notice of Removal are attached hereto as Exhibit B.

10. Written notice of the filing of this Notice of Removal, the exhibits thereto, the Notice and Certificate were mailed to Plaintiff’s counsel today.

11. True and correct copies of the pleadings enumerated will be filed with the Clerk of the Clark County Circuit Court.

WHEREFORE, Defendant Walmart Stores East, LP respectfully requests the removal of this action from the Clark County Circuit Court to this Court for all other appropriate procedures.

Respectfully submitted,

/s/ Emily C. Lamb

Jennifer Kincaid Adams
Emily C. Lamb (Atty. No. 30371-10)
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Counsel for Defendant

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Notice of Removal was sent to the following via U.S. mail, postage prepaid, on this 19th day of February, 2020:

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Counsel for Plaintiff

/s/ Emily C. Lamb

Counsel for Defendant